

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

REX SHAMBRAISS WARD,
Petitioner,

CASE NO. 2:07-cv-41
JUDGE FROST
MAGISTRATE JUDGE KING

v.

DEBORAH TIMMERMAN-COOPER, Warden,
Respondent.

OPINION AND ORDER

On January 4, 2008, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed as barred by the one-year statute of limitations under 28 U.S.C. §2244(d). Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. Petitioner objects to all of the Magistrate Judge's recommendations and again raises all of the same arguments that he previously presented. Petitioner again contends that this action is timely despite his six and a half year delay in writing the public defender to inquire about his right to appeal because, he alleges, neither the trial court nor his attorney advised him that he had the right to appeal the maximum and consecutive sentences imposed pursuant to his guilty plea. As justification for his delay, petitioner again contends that he was under the impression that he had no right to appeal. *See Objections.* However, petitioner does not indicate that he made any effort during this period of time to learn about his right to appeal. Further, he fails to explain why he waited nine more months after being advised by the public defender regarding the availability of

a motion for delayed appeal, to pursue such action.

Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a de novo review of the *Report and Recommendation*. This Court likewise concludes that petitioner failed to exercise diligence in pursuing his claims, and his habeas corpus petition is time-barred. For these reasons, and for the reasons detailed in the Magistrate Judge's *Report and Recommendation*, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
United States District Judge